

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 02-20681-CR-UNGARO-BENAGES/O'SULLIVAN

UNITED STATES OF AMERICA,

Plaintiff,

v.

JORGE RAMIREZ,

Defendant.

/

REPORT AND RECOMMENDATION

THIS MATTER is before the Court on a Petition for Warrant or Summons for Offender Under Supervision (DE# 53, 7/17/06). This Matter was referred to the undersigned by the Honorable Ursula Ungaro-Benages, United States District Court Judge for the Southern District to take all necessary and proper action as required by law, including but not limited to an evidentiary hearing, with respect to whether or not the defendant's supervised release/probation should be revoked (DE # 61, 9/25/06). It is recommended that the defendant's supervised release be revoked.

BACKGROUND

On September 19, 2003, after being convicted of conspiracy to receive and possess stolen goods in violation of 18 U.S.C. § 371, the defendant was sentenced to five months custody of the Bureau of Prisons followed by three years supervised release. See Petition for Warrant or Summons for Offender Under Supervision (DE# 53 at 1, 7/17/06).

The defendant is charged with five violations of his supervised release as follows:

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
1.	<u>Violation of Mandatory Condition</u> , by failing to refrain from a violation of the law. On or about May 20, 2006, in Marion County, Florida, the defendant, in conjunction with Yunior Perez, stole a cargo trailer valued in excess of \$100,000, conspired to commit organized fraud, damaged property and possessed burglary tools.
2.	<u>Violation of Standard Condition</u> , by leaving the judicial district without first securing permission of the probation officer. On or about May 20, 2006, the defendant traveled to Ocala, Marion County, Florida, without permission of the probation officer or the Court, as evidenced by his arrest in the above charges.
3.	<u>Violation of Standard Condition</u> , by failing to notify the U.S. Probation Officer within seventy-two hours of being questioned or arrested by a law enforcement officer. On or about June 12, 2006, a records check revealed the defendant was arrested by Marion County Sheriff's Office and charged with two counts of Grand Theft, Financial Fraud, Property Damage/Criminal Mischief and Possession of Burglary Tools, under Marion County Court Docket Number 06-02096-CF-A-W, and he failed to advise the U.S. Probation Officer.
4.	<u>Violation of Standard Condition</u> , by associating with a person engaged in criminal activity. On or about May 24, 2006, Detective Erik Dice, with the Marion County Sheriff's Office, linked the defendant, prior, during and after two thefts, with Yunior Perez, a white male, born July 9, 1978, a subject identified by the Marion County Sheriff's Office as an individual involved in cargo theft.
5.	<u>Violation of Standard Condition</u> , by associating with a person engaged in criminal activity. On or about May 24, 2006, Detective Erik Dice, with the Marion County Sheriff's Office, linked the defendant, prior, during and after two thefts, with Maikel Saez Fuerte, a white male, born September 25, 1978, a subject identified by the Marion County Sheriff's Office as an individual involved in cargo theft.

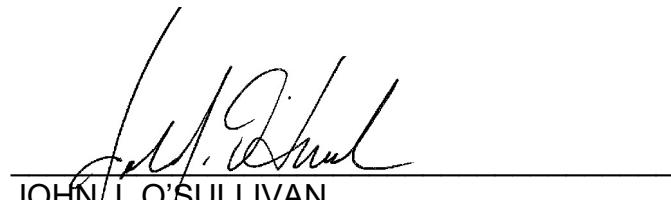
On February 1, 2007, the defendant Jorge Ramirez while represented by counsel waived his right to an evidentiary hearing and admitted to supervised release violations numbers two and three. The defendant, defense counsel and the government agreed to dismissal of violations numbers one, four and five without prejudice to renew if necessary.

RECOMMENDATION

The undersigned recommends revocation of the defendant's supervised release based on the defendant's admission to the violations numbered two and three and dismissal of violations numbers one, four and five without prejudice to renew if necessary.

The parties have ten (10) days from the receipt of this Report and Recommendation within which to serve and file written objections, if any, with the Honorable Ursula Ungaro-Benages, United States District Court Judge. Failure to file the objections in a timely manner shall bar the parties from attacking on appeal the factual findings contained herein. LoConte v. Dugger, 847 F.2d 745 (11th Cir. 1988), cert. denied, 488 U.S. 958, 109 S.Ct. 397 (1988).

RESPECTFULLY SUBMITTED at the United States Courthouse, Miami, Florida this 1st day of February, 2007.



JOHN J. O'SULLIVAN
UNITED STATES MAGISTRATE JUDGE

Copies provided to:

Faith Mesnekoff, AFPD
Brent Tantillo, AUSA
Probation Officer
Honorable Judge Ungaro-Benages